

AMENDED IN ASSEMBLY JANUARY 23, 2012

AMENDED IN ASSEMBLY JANUARY 18, 2012

AMENDED IN ASSEMBLY SEPTEMBER 7, 2011

AMENDED IN SENATE MARCH 21, 2011

SENATE BILL

No. 880

Introduced by Senator Corbett
(Coauthor: Assembly Member Butler)

February 18, 2011

An act to amend Sections 1353.9 and 1363.07 of the Civil Code, relating to common interest developments, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 880, as amended, Corbett. Common interest developments: electric vehicle charging stations.

The Davis-Stirling Common Interest Development Act defines and regulates common interest developments, which include community apartment projects, condominium projects, planned developments, and stock cooperatives. Beginning January 1, 2012, any covenant, restriction, or condition in a deed or other instrument affecting the transfer or sale of an interest in a common interest development, or any provision of the governing documents of a common interest development, that prohibits or restricts the installation or use of an electric vehicle charging station is void and unenforceable. On and after January 1, 2012, if an electric vehicle charging station is to be placed in a common area, the homeowner and common interest development association shall be subject to certain requirements.

This bill would make those provisions applicable only to the installation or use of an electric vehicle charging station in an owner's designated parking space, as described. The bill would also provide that any provision in those documents that is in conflict with those requirements is void and unenforceable. The bill would authorize the installation of a charging station for the exclusive use of an owner in a common area that is not an exclusive use common area only if installation in the owner's designated parking space is impossible or unreasonably expensive. However, the bill would authorize an association or owners to install a charging station in the common area for the use of all members, and would require the association to develop appropriate terms of use for the charging station. The bill would authorize the board of directors of an association to grant exclusive use of a portion of the common area without the affirmative vote of the members of the association for the purpose of installing and using an electric vehicle charging station in an owner's garage or designated parking space, under specified circumstances, such as when the installation or use of the charging station requires reasonable access through the common area for utility lines or meters.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1353.9 of the Civil Code is amended to
2 read:
3 1353.9. (a) Any covenant, restriction, or condition contained
4 in any deed, contract, security instrument, or other instrument
5 affecting the transfer or sale of any interest in a common interest
6 development, and any provision of a governing document, as
7 defined in subdivision (j) of Section 1351, that either effectively
8 prohibits or unreasonably restricts the installation or use of an
9 electric vehicle charging station in an owner's designated parking
10 space, including, but not limited to, a deeded parking space, a
11 parking space in an owner's exclusive use common area, or a
12 parking space that is specifically designated for use by a particular
13 owner, or is in conflict with the provisions of this section is void
14 and unenforceable.

(b) (1) This section does not apply to provisions that impose reasonable restrictions on electric vehicle charging stations. However, it is the policy of the state to promote, encourage, and remove obstacles to the use of electric vehicle charging stations.

(2) For purposes of this section, “reasonable restrictions” are restrictions that do not significantly increase the cost of the station or significantly decrease its efficiency or specified performance.

(c) An electric vehicle charging station shall meet applicable health and safety standards and requirements imposed by state and local authorities as well as all other applicable zoning, land use or other ordinances, or land use permits.

(d) For purposes of this section, “electric vehicle charging station” means a station that is designed in compliance with the California Building Standards Code and delivers electricity from a source outside an electric vehicle into one or more electric vehicles. An electric vehicle charging station may include several charge points simultaneously connecting several electric vehicles to the station and any related equipment needed to facilitate charging plug-in electric vehicles.

(e) If approval is required for the installation or use of an electric vehicle charging station, the application for approval shall be processed and approved by the association in the same manner as an application for approval of an architectural modification to the property, and shall not be willfully avoided or delayed. The approval or denial of an application shall be in writing. If an application is not denied in writing within 60 days from the date of receipt of the application, the application shall be deemed approved, unless that delay is the result of a reasonable request for additional information.

(f) If the electric vehicle charging station is to be placed in a common area or an exclusive use common area, as designated in the common interest development’s declaration, the following provisions apply:

(1) The owner first shall obtain approval from the association to install the electric vehicle charging station and the association shall approve the installation if the owner agrees in writing to do all of the following:

(A) Comply with the association’s architectural standards for the installation of the charging station.

(B) Engage a licensed contractor to install the charging station.

(C) Within 14 days of approval, provide a certificate of insurance that names the association as an additional insured under the owner's insurance policy in the amount set forth in paragraph (3).

(D) Pay for the electricity usage associated with the charging station.

(2) The owner and each successive owner of the charging station shall be responsible for all of the following:

(A) Costs for damage to the charging station, common area, exclusive use common area, or separate interests resulting from the installation, maintenance, repair, removal, or replacement of the charging station.

(B) Costs for the maintenance, repair, and replacement of the charging station until it has been removed and for the restoration of the common area after removal.

(C) The cost of electricity associated with the charging station.

(D) Disclosing to prospective buyers the existence of any charging station of the owner and the related responsibilities of the owner under this section.

(3) The owner and each successive owner of the charging station, at all times, shall maintain ~~an umbrella~~ *a homeowner* liability coverage policy in the amount of one million dollars (\$1,000,000) ~~covering the obligations of the owner under paragraph (2)~~, and shall name the association as ~~an~~ *a named* additional insured under the policy with a right to notice of cancellation.

(4) *A homeowner shall not be required to maintain a homeowner liability coverage policy for an existing National Electrical Manufacturers Association standard alternating current power plug.*

(g) Except as provided in subdivision (h), installation of an electric vehicle charging station for the exclusive use of an owner in a common area, that is not an exclusive use common area, shall be authorized by the association only if installation in the owner's designated parking space is impossible or unreasonably expensive. In such cases, the association shall enter into a license agreement with the owner for the use of the space in a common area, and the owner shall comply with all of the requirements in subdivision (f).

(h) The association or owners may install an electric vehicle charging station in the common area for the use of all members of

1 the association and, in that case, the association shall develop
2 appropriate terms of use for the charging station.

3 (i) An association may create a new parking space where one
4 did not previously exist to facilitate the installation of an electric
5 vehicle charging station.

6 (j) An association that willfully violates this section shall be
7 liable to the applicant or other party for actual damages, and shall
8 pay a civil penalty to the applicant or other party in an amount not
9 to exceed one thousand dollars (\$1,000).

10 (k) In any action to enforce compliance with this section, the
11 prevailing plaintiff shall be awarded reasonable attorney's fees.

12 SEC. 2. Section 1363.07 of the Civil Code is amended to read:

13 1363.07. (a) After an association acquires fee title to, or any
14 easement right over, a common area, unless the association's
15 governing documents specify a different percentage, the affirmative
16 vote of members owning at least 67 percent of the separate interests
17 in the common interest development shall be required before the
18 board of directors may grant exclusive use of any portion of that
19 common area to any member, except for any of the following:

20 (1) A reconveyance of all or any portion of that common area
21 to the subdivider to enable the continuation of development that
22 is in substantial conformance with a detailed plan of phased
23 development submitted to the Real Estate Commissioner with the
24 application for a public report.

25 (2) Any grant of exclusive use that is in substantial conformance
26 with a detailed plan of phased development submitted to the Real
27 Estate Commissioner with the application for a public report or in
28 accordance with the governing documents approved by the Real
29 Estate Commissioner.

30 (3) Any grant of exclusive use that is for any of the following
31 reasons:

32 (A) To eliminate or correct engineering errors in documents
33 recorded with the county recorder or on file with a public agency
34 or utility company.

35 (B) To eliminate or correct encroachments due to errors in
36 construction of any improvements.

37 (C) To permit changes in the plan of development submitted to
38 the Real Estate Commissioner in circumstances where the changes
39 are the result of topography, obstruction, hardship, aesthetic
40 considerations, or environmental conditions.

1 (D) To fulfill the requirement of a public agency.

2 (E) To transfer the burden of management and maintenance of
3 any common area that is generally inaccessible and not of general
4 use to the membership at large of the association.

5 (F) Any grant in connection with an expressly zoned industrial
6 or commercial development, or any grant within a subdivision of
7 the type defined in Section 1373.

8 (G) (i) To install and use an electric vehicle charging station
9 in an owner's garage or a designated parking space that meets the
10 requirements of Section 1353.9, where the installation or use of
11 the charging station requires reasonable access through, or across,
12 the common area for utility lines or meters.

13 (ii) To install and use an electric vehicle charging station through
14 a license granted by an association under Section 1353.9.

15 (b) Any measure placed before the members requesting that the
16 board of directors grant exclusive use of any portion of the common
17 area shall specify whether the association will receive any monetary
18 consideration for the grant and whether the association or the
19 transferee will be responsible for providing any insurance coverage
20 for exclusive use of the common area.

21 SEC. 3. This act is an urgency statute necessary for the
22 immediate preservation of the public peace, health, or safety within
23 the meaning of Article IV of the Constitution and shall go into
24 immediate effect. The facts constituting the necessity are:

25 In order to fully effectuate, in common interest developments,
26 the state's policy to promote, encourage, and remove obstacles to
27 the use of electric vehicle charging stations at the earliest possible
28 time, it is necessary for this act to take effect immediately.